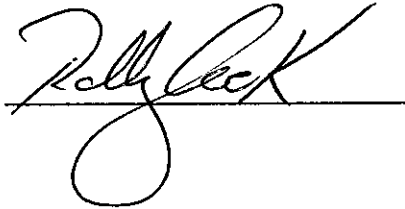


By:



H.B. No. 3128

A BILL TO BE ENTITLED

AN ACT

relating to the administration of certain housing programs by the Texas Department of Housing and Community Affairs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2306.004, Government Code, is amended by adding Subdivisions (28-a), (28-b), and (35) to read as follows:

(28-a) "Rural area" means an area that is located:

(A) outside the boundaries of a primary metropolitan statistical area or a metropolitan statistical area;

(B) within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area, if the statistical area has a population of 25,000 or less and does not share a boundary with an urban area; or

(C) in an area that is eligible for funding by the Texas Rural Development Office of the United States Department of Agriculture, other than an area that is located in a municipality with a population of 50,000 or more.

(28-b) "Rural development" means a development or proposed development that is located in a rural area, including rural developments described by Section 2306.67035(a) or (b).

(35) "Urban area" means the area that is located within the boundaries of a primary metropolitan statistical area or a metropolitan statistical area other than an area described by Subdivision (28-a)(B) or (C). The terms also includes a new

1 construction development described by Section 2306.67035(b).

2 SECTION 2. Section 2306.111, Government Code, is amended by  
3 adding Subsections (c-3), (d-2), and (d-3) and amending Subsections  
4 (d), (e), (f), and (g) to read as follows:

5 (c-3) The department by rule shall set aside five percent of  
6 the funds available under Subsection (c) for the benefit of persons  
7 with a disability who live in non-participating small cities and  
8 rural areas that do not qualify to receive funds under the  
9 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.  
10 Section 12701 et seq.) directly from the United States Department  
11 of Housing and Urban Development. Subject to Subsection (c-2), in  
12 each application cycle the department shall use from the funds  
13 available under Subsection (c) \$10 million for multifamily housing  
14 development construction or rehabilitation proposed by applicants  
15 eligible under Subsection (c-1). If the department does not  
16 receive a sufficient number of financially feasible applications  
17 for housing for persons with a disability or for multifamily  
18 housing development construction or rehabilitation during the  
19 first 120 days of the application cycle, the funds shall be made  
20 available for other purposes authorized under the  
21 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.  
22 Section 12701 et seq.).

23 (d) The department shall allocate housing funds provided to  
24 the state under the Cranston-Gonzalez National Affordable Housing  
25 Act (42 U.S.C. Section 12701 et seq.), housing trust funds  
26 administered by the department under Sections 2306.201-2306.206,  
27 and commitments issued under the federal low income housing tax

1 credit program administered by the department under Subchapter DD  
2 to all urban [~~urban/exurban~~] areas and rural areas of each uniform  
3 state service region based on a formula developed by the department  
4 that is based on population and the need for housing assistance [~~and~~  
5 ~~the availability of housing resources~~] in those urban  
6 [~~urban/exurban~~] areas and rural areas. All [~~, provided that the~~]  
7 allocations must be [~~are~~] consistent with applicable federal and  
8 state requirements and limitations. The department shall use the  
9 latest annual population projections provided by the United States  
10 Census Bureau [~~information contained in its annual state low income~~  
11 ~~housing plan~~] and [~~shall use~~] other appropriate data to develop the  
12 formula. If the department determines under the formula that an  
13 insufficient number of eligible applications for assistance out of  
14 funds or credits allocable under this subsection are submitted to  
15 the department from a particular uniform state service region, the  
16 department shall use the unused funds or credits allocated to that  
17 region for urban [~~all urban/exurban~~] areas and rural areas in other  
18 uniform state service regions [~~based on identified need and~~  
19 ~~financial feasibility~~].

20 (d-2) In allocating low income housing tax credit  
21 commitments under Subchapter DD, the department shall allocate five  
22 percent of the housing tax credits in the allocation cycle to  
23 developments that receive federal financial assistance through the  
24 Texas Rural Development Office of the United States Department of  
25 Agriculture. Any funds allocated to developments under this  
26 subsection that involve rehabilitation must come from the funds set  
27 aside for at-risk developments under Section 2306.6714. This

1 subsection does not apply to a development financed wholly or  
2 partly under Section 538 of the Housing Act of 1949 (42 U.S.C.  
3 Section 1490p-2).

4 (d-3) In allocating low income tax credit commitments under  
5 Subchapter DD, the department shall allocate to developments in  
6 rural areas 25 percent or more of the housing tax credits in the  
7 allocation cycle, with \$500,000 or more in housing tax credits  
8 being reserved for each uniform state service region under this  
9 subsection. Any amount of housing tax credits set aside for  
10 developments in rural areas under this subsection that remains  
11 after the initial allocation of housing tax credits is available  
12 for allocation to developments in urban areas of each uniform state  
13 service region.

14 (e) The department shall include in its annual low income  
15 housing plan under Section 2306.0721:

16 (1) the formula developed by the department under  
17 Subsection (d); and

18 (2) the allocation targets established under the  
19 formula for the urban [~~urban/exurban~~] areas and rural areas of each  
20 uniform state service region.

21 (f) The department shall include in its annual low income  
22 housing report under Section 2306.072 the amounts of funds and  
23 credits allocated to the urban [~~urban/exurban~~] areas and rural  
24 areas of each uniform state service region in the preceding year for  
25 each federal and state program affected by the requirements of  
26 Subsection (d).

27 (g) For all urban [~~urban/exurban~~] areas and rural areas of

1 each uniform state service region, the department shall establish  
2 funding priorities to ensure that:

3 (1) funds are awarded to project applicants who are  
4 best able to meet recognized needs for affordable housing, as  
5 determined by department rule;

6 (2) when practicable and when authorized under Section  
7 42, Internal Revenue Code of 1986 (26 U.S.C. Section 42), the least  
8 restrictive funding sources are used to serve the lowest income  
9 residents; and

10 (3) funds are awarded based on a project applicant's  
11 ability, when consistent with Section 42, Internal Revenue Code of  
12 1986 (26 U.S.C. Section 42), practicable, and economically  
13 feasible, to:

14 (A) provide the greatest number of quality  
15 residential units;

16 (B) serve persons with the lowest percent area  
17 median family income;

18 (C) extend the duration of the project to serve a  
19 continuing public need;

20 (D) use other local funding sources to minimize  
21 the amount of state subsidy needed to complete the project; and

22 (E) provide integrated, affordable housing for  
23 individuals and families with different levels of income.

24 SECTION 3. Section 2306.111(c), Government Code, as amended  
25 by Chapters 1367 and 1448, Acts of the 77th Legislature, Regular  
26 Session, 2001, is reenacted and amended to read as follows:

27 (c) Except as provided by Subsection (c-3), in [In]

1 administering federal housing funds provided to the state under the  
2 Cranston-Gonzalez National Affordable Housing Act (42 U.S.C.  
3 Section 12701 et seq.), the department shall expend 100 [~~at least~~  
4 ~~95~~] percent of these funds for:

5       (1) the benefit of non-participating small cities and  
6 rural areas that do not qualify to receive funds under the  
7 Cranston-Gonzalez National Affordable Housing Act directly from  
8 the United States Department of Housing and Urban Development; or

9       (2) the preservation of existing affordable housing  
10 that receives financing from the United States Department of  
11 Agriculture. [~~All funds not set aside under this subsection shall~~  
12 ~~be used for the benefit of persons with disabilities who live in~~  
13 ~~areas other than small cities and rural areas.~~]

14       SECTION 4. Section 2306.1111, Government Code, is amended  
15 by amending Subsection (a) and adding Subsections (a-1) and (a-2)  
16 to read as follows:

17       (a) Notwithstanding any other state law and to the extent  
18 consistent with federal law, the department shall establish a  
19 uniform application and funding cycle for all single-family and  
20 multifamily housing programs administered by the department under  
21 this chapter, excluding any program described by Chapter 1372 and  
22 including a uniform application and funding cycle for housing  
23 sponsors of multifamily housing developments applying for:

24       (1) housing trust funds administered by the department  
25 under Sections 2306.201-2306.206; and

26       (2) commitments issued under the federal low income  
27 housing tax credit program administered by the department under

1 Subchapter DD.

2 (a-1) The application acceptance periods for the programs  
3 described by Subsections (a)(1) and (2) must run concurrently.

4 (a-2) If the department does not receive during the uniform  
5 application and funding cycle under Subsection (a) a sufficient  
6 number of financially feasible applications for housing trust funds  
7 administered by the department under Sections 2306.201-2306.206,  
8 the department may consider additional applications for those  
9 funds.

10 SECTION 5. Section 2306.142(d), Government Code, is amended  
11 to read as follows:

12 (d) The department or its designee shall analyze the  
13 potential market demand, loan availability, and private sector home  
14 mortgage lending rates available to extremely low, very low, low,  
15 and moderate income borrowers in ~~[the]~~ rural areas ~~[counties of the~~  
16 ~~state]~~, in census tracts in which the median family income is less  
17 than 80 percent of the median family income for the county in which  
18 the census tract is located, and in the region of the state adjacent  
19 to the international border of the state. The department or its  
20 designee shall establish a process for serving those rural areas  
21 ~~[counties]~~, census tracts, and regions through the single-family  
22 mortgage revenue bond program in a manner proportionate to the  
23 credit needs of those areas as determined through the department's  
24 market study.

25 SECTION 6. Subchapter DD, Chapter 2306, Government Code, is  
26 amended by adding Section 2306.67035 to read as follows:

27 Sec. 2306.67035. SPECIAL PROVISIONS FOR RURAL AREAS. (a)

1 An application for housing tax credits from funds available for  
2 rural areas must be limited to:

3 (1) the rehabilitation of a development of any size;  
4 or

5 (2) the development of a new construction development  
6 that contains not more than 80 units.

7 (b) A new construction development that contains 80 units or  
8 more and is located in a rural area is eligible and may apply for  
9 funds available for urban areas regardless of the development's  
10 rural location.

11 SECTION 7. Section 2306.6710, Government Code, is amended  
12 by amending Subsections (b) and (f) and adding Subsection (h) to  
13 read as follows:

14 (b) If an application satisfies the threshold criteria, the  
15 department shall score and rank the application using a point  
16 system that:

17 (1) prioritizes in descending order criteria  
18 regarding:

19 (A) financial feasibility of the development  
20 based on the supporting financial data required in the application  
21 that will include a project underwriting pro forma from the  
22 permanent or construction lender;

23 (B) quantifiable community participation with  
24 respect to the development, evaluated on the basis of written  
25 statements from any neighborhood organizations on record with the  
26 state or county in which the development is to be located and whose  
27 boundaries contain the proposed development site;



1 (C) the income levels of tenants of the  
2 development;

3 (D) the size and quality of the units;

4 (E) ~~[the commitment of development funding by~~  
5 ~~local political subdivisions,~~

6 ~~[(F)]~~ the level of community support for the  
7 application, evaluated on the basis of written statements from  
8 state elected officials;

9 (F) ~~[(G)]~~ the rent levels of the units;

10 (G) ~~[(H)]~~ the cost of the development by square  
11 foot; and

12 (H) ~~[(I)]~~ the services to be provided to tenants  
13 of the development; and

14 (2) uses criteria imposing penalties on applicants or  
15 affiliates who have requested extensions of department deadlines  
16 relating to developments supported by housing tax credit  
17 allocations made in the application round preceding the current  
18 round or a developer or principal of the applicant that has been  
19 removed by the lender, equity provider, or limited partners for its  
20 failure to perform its obligations under the loan documents or  
21 limited partnership agreement.

22 (f) In evaluating the level of community support for an  
23 application under Subsection (b)(1)(E) ~~[(b)(1)(F)]~~, the department  
24 shall award:

25 (1) positive points for positive written statements  
26 received;

27 (2) negative points for negative written statements

1 received; and

2 (3) zero points for neutral statements received.

3 (h) For the purposes of Subsection (b)(1)(B), the  
4 department shall award to an applicant points as follows:

5 (1) the maximum number of points possible under that  
6 paragraph, if the development receives no written statements of  
7 opposition, regardless of whether the applicant receives any  
8 written statements of support; and

9 (2) for each written statement of opposition the  
10 applicant receives, a negative number of points that is equal in  
11 number to one-third the maximum number of points possible under  
12 that paragraph.

13 SECTION 8. Section 2306.6702(12), Government Code, is  
14 repealed.

15 SECTION 9. It is the intent of the legislature that the  
16 passage by the 80th Legislature, Regular Session, 2007, of another  
17 bill that amends Chapter 2306, Government Code, and the amendments  
18 made by this Act shall be harmonized, if possible, as provided by  
19 Section 311.025(b), Government Code, so that effect may be given to  
20 each. If the amendments made by this Act to Chapter 2306,  
21 Government Code, and the amendments made to Chapter 2306,  
22 Government Code, by any other bill are irreconcilable, it is the  
23 intent of the legislature that this Act prevail, regardless of the  
24 relative dates of enactment of this Act and the other bill or bills,  
25 but only to the extent that any differences are irreconcilable.

26 SECTION 10. The changes in law made by this Act relating to  
27 the evaluation of applications for financial assistance

1 administered by the Texas Department of Housing and Community  
2 Affairs apply only to an application submitted on or after the  
3 effective date of this Act. An application submitted before the  
4 effective date of this Act is governed by the law in effect when the  
5 application was submitted, and the former law is continued in  
6 effect for that purpose.

7 SECTION 11. This Act takes effect September 1, 2007.

# 80TH LEGISLATURE

## COAUTHOR AUTHORIZATION

(please request your coauthors to sign this form  
in lieu of the front or the back of the original bill)

Bill or Resolution Number: HB 3128

[Signature]  
signature of primary author

Robby Cook  
printed name of primary author

3/08/07  
Date

PERMISSION TO SIGN HB 3128 HAS BEEN GIVEN TO (check only one of the following):  
(bill or resolution #)

☒ ALL REPRESENTATIVES

☐ THE FOLLOWING REPRESENTATIVE(S): \_\_\_\_\_

I authorize the Chief Clerk to include my name as a coauthor of the legislation indicated above:


A2100 Allen	Date	A2450 Cook, Byron	Date	A2795 Farabee	Date
A2125 Alonzo	Date	A2565 Cook, Robby	Date	A2820 Farias	Date
A2150 Anchia	Date	A2595 Corte	Date	A2810 Farrar	Date
A2155 Anderson	Date	A2605 Crabb	Date	A2840 Flores	Date
A2145 Aycock	Date	A2610 Craddick	Date	A2850 Flynn	Date
A2160 Bailey	Date	A2615 Creighton	Date	A2860 Frost	Date
A2205 Berman	Date	A2640 Crownover	Date	A2920 Gallego	Date
A2230 Bohac	Date	A2645 Darby	Date	A2915 Garcia	Date
A2240 Bolton	Date	A2620 Davis, John	Date	A2960 Gattis	Date
A2250 Bonnen	Date	A2625 Davis, Yvonne	Date	A2945 Geren	Date
A2280 Branch	Date	A2680 Delisi	Date	A2935 Giddings	Date
A2265 Brown, Betty	Date	A2690 Deshotel	Date	A2910 Gonzales	Date
A2270 Brown, Fred	Date	A2705 Driver	Date	A4660 Gonzalez Toureilles	Date
A2255 Burnam	Date	A2665 Dukes	Date	A2990 Goolsby	Date
A2295 Callegari	Date	A2660 Dunnam	Date	A3045 Guillen	Date
A2495 Castro	Date	A2650 Dutton	Date	A3035 Haggerty	Date
A2585 Chavez	Date	A2775 Eiland	Date	A3050 Hamilton	Date
A2480 Chisum	Date	A2780 Eissler	Date	A3100 Hancock	Date
A2525 Christian	Date	A2785 Elkins	Date	A3160 Hardcastle	Date
A2425 Cohen	Date	A2805 England	Date	A3150 Harless	Date
A2435 Coleman	Date	A2800 Escobar	Date	A3165 Harper-Brown	Date

A3170 Hartnett	Date	A3730 Mallory Caraway	Date	A4185 Pitts	Date
A3175 Heflin	Date	A3780 Martinez	Date	A4200 Puente	Date
A3155 Hernandez	Date	A2835 Martinez Fischer	Date	A4230 Quintanilla	Date
A3140 Herrero	Date	A3665 McCall	Date	A4215 Raymond	Date
A3250 Hilderbran	Date	A3650 McClendon	Date	A4220 Riddle	Date
A3275 Hill	Date	A3845 McReynolds	Date	A4250 Ritter	Date
A3305 Hochberg	Date	A3830 Menendez	Date	A4270 Rodriguez	Date
A3290 Hodge	Date	A3840 Merritt	Date	A4350 Rose	Date
A3325 Homer	Date	A3825 Miles	Date	A4525 Smith, Todd	Date
A3330 Hopson	Date	A3835 Miller	Date	A4540 Smith, Wayne	Date
A3315 Howard, Charlie	Date	A3860 Moreno	Date	A4530 Smithee	Date
A3310 Howard, Donna	Date	A3870 Morrison	Date	A4505 Solomons	Date
A3340 Hughes	Date	A3865 Mowery	Date	A4545 Strama	Date
A3375 Isett	Date	A3875 Murphy	Date	A4565 Straus	Date
A3350 Jackson	Date	A3885 Naishtat	Date	A4570 Swinford	Date
A3405 Jones	Date	A3900 Noriega	Date	A4585 Talton	Date
A3480 Keffer	Date	A3890 O'Day	Date	A4600 Taylor	Date
A3470 King, Phil	Date	A3880 Oliveira	Date	A4630 Thompson	Date
A3460 King, Susan	Date	A3886 Olivo	Date	A4650 Truitt	Date
A3465 King, Tracy	Date	A3930 Orr	Date	A4685 Turner	Date
A3495 Kolkhorst	Date	A3940 Ortiz, Jr.	Date	A4700 Van Arsdale	Date
A3485 Krusee	Date	A3945 Otto	Date	A4780 Vaught	Date
A3450 Kuempel	Date	A4090 Parker	Date	A4725 Veasey	Date
A3520 Latham	Date	A4050 Patrick	Date	A4800 Villarreal	Date
A3540 Laubenberg	Date	A4100 Paxton	Date	A4900 Vo	Date
A3560 Leibowitz	Date	A4140 Pena	Date	A4995 West	Date
A3610 Lucio, III	Date	A4160 Phillips	Date	A5005 Woolley	Date
A3705 Macias	Date	A4180 Pickett	Date	A5150 Zedler	Date
A3715 Madden	Date	A3240 Pierson	Date	A5170 Zerwas	Date

H.B. No. 3128

A BILL TO BE ENTITLED  
AN ACT

By



relating to the administration of certain housing programs by the Texas Department of Housing and Community Affairs.

**MAR - 8 2007**

Filed with the Chief Clerk

**MAR 19 2007**

Read first time and referred to Committee on

**Urban Affairs**

Reported \_\_\_\_\_ favorably (as amended)  
(as substituted)

Sent to Committee on (Calendars)  
(Local & Consent Calendars)

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)  
by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Engrossed

Sent to Senate

CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

Received from the House

Read and referred to Committee on \_\_\_\_\_

Reported favorably \_\_\_\_\_

Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

Ordered not printed

Laid before the Senate

Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Read second time, \_\_\_\_\_, and passed to third reading by (unanimous consent)  
(a viva voce vote)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Senate and Constitutional 3 Day Rules suspended by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays

Read third time, \_\_\_\_\_, and passed by a (viva voce vote)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

Returned to the House

SECRETARY OF THE SENATE

OTHER SENATE ACTION:

\_\_\_\_\_ Returned from the Senate (as substituted)  
(with amendments)

\_\_\_\_\_ House concurred in Senate amendments by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ House refused to concur in Senate amendments and requested the appointment of a conference committee  
by a (non-record vote) (record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ House conferees appointed: \_\_\_\_\_, Chair; \_\_\_\_\_,  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ Senate granted House request. Senate conferees appointed: \_\_\_\_\_, Chair;  
\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_ Conference committee report adopted (rejected) by the House by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

\_\_\_\_\_ Conference committee report adopted (rejected) by the Senate by a (viva voce vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays)